IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6208 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AJ SUMRA - Petitioner
Versus
COMMISSIONER & 1 - Respondents

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Appearance :
MR IS SUPEHIA for Petitioner : 1,
MR UMANG OZA AGP for Respondents : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

Date : 05/07/2007

ORAL JUDGMENT

1. Heard Shri Supehia, learned counsel for the petitioner and Shri Oza, learned AGP for respondents.

2. The petitioner has approached this Court under Article 226 of the Constitution of India interalia praying that the Office Order dated 24.9.1992 and 9.4.1997 be quashed and set aside so far as it pertains to the petitioner and directed the respondent No. 1 to place the petitioner in pay-scale of Rs.1600-2660 with effect from 1.6.1987. The contention of the petitioner is on the aspect that he had in fact was given the pay scale which was permissible to the qualified compounder as he had cleared the prescribed test and his case was therefore, rightly recommended for qualified compounder by the concerned Civil Surgeon. The petitioner was in fact appointed as compounder and was given the pay scale of qualified compounder. However, while according the higher pay scale under the scheme of giving higher pay scale after completion of 9, 18 and 27 years of service, he was treated to have been unqualified compounder, which is erroneous and deserves to be rectified.

3. The respondents have contended that the petitioner being not registered compounder, he was required to be treated as unqualified compounder. Government Resolution annexed with the affidavit in reply dated 8.10.1956 contains provisions that the person could be appointed as compounder if he has passed the prescribed examination for compounder.

4. Prima-facie it appears that the contention of the respondents requiring registration is not supported by the Resolution at Page 30 dated 8.10.1956. It is admitted position as it appears from the record that before altering

the pay scale to the petitioner, the petitioner was not heard. The petition deserves to be allowed partly on this ground. The respondent No. 1 is hereby directed to afford an opportunity to the petitioner and decide the claim of the petitioner after taking into consideration the relevant documents that may be submitted by him. The representation if any, filed by the petitioner, be decided as expeditiously as possible preferably within 6 weeks from the receipt thereof. With this direction, this petition is disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

(S.R.BRAHMBHATT, J.)

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